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9 *Attorneys for Plaintiffs*
10 *Bellagio LLC and*
Mirage Resorts, Incorporated

11
12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 BELLAGIO, LLC, a Nevada limited
liability company; MIRAGE RESORTS,
15 INCORPORATED, a Nevada corporation,

16 Plaintiffs,

17 vs.

18 BELLAGIO CAR WASH & EXPRESS LUBE,
a business organization, and TRI STAR CAR
19 WASH, a business organization.

20 Defendants.
21

CASE NO. 2:14-cv-1362

COMPLAINT

22 For their complaint, Plaintiffs Bellagio, LLC, and Mirage Resorts, Incorporated (“MRI”)
23 (collectively defined below as “Bellagio”) allege as follows:

24 **NATURE OF THE ACTION**

25 1. This is an action by Plaintiffs Bellagio, LLC, and its parent, MRI, against
26 Defendants Bellagio Car Wash & Express Lube and Tri Star Car Wash (“Defendants”) for
27 trademark dilution and cybersquatting arising out of Defendants’ unauthorized and unlawful use in
28 commerce of Plaintiffs’ federally registered BELLAGIO trademarks in connection with

1 Defendants' operation of a car wash in Lawndale, California. In this action, Plaintiffs seek
2 injunctive relief as well as damages, attorneys' fees and costs.

3
4 **JURISDICTION**

5 2. This Court has original subject-matter jurisdiction over this action pursuant to 28
6 U.S.C. § 1331 and 1338, because Plaintiffs' claims arise under the federal trademark laws. This
7 Court has supplemental jurisdiction over Plaintiffs' state and common law claims under 28 U.S.C.
8 § 1367, because those claims are related to claims under this Court's original jurisdiction and form
9 part of the same case or controversy under Article III of the United States Constitution.

10 3. This Court has personal jurisdiction over Defendants. Upon information and belief,
11 the Defendants purposefully, willfully, and/or intentionally infringed upon Plaintiffs' BELLAGIO
12 trademarks by adopting the world-famous BELLAGIO mark with the scripted B used by the
13 Bellagio. Upon information and belief, the Defendants adopted this mark with the knowledge that
14 the Bellagio hotel and casino is located in Nevada and with the knowledge that Plaintiffs would
15 likely suffer injury or harm resulting from the infringement in Nevada. Defendants have
16 purposefully directed their tortious conduct and activities at Plaintiffs in Nevada and Plaintiffs'
17 claims arise out of such conduct and their activities directed at Plaintiffs in Nevada. The exercise
18 of personal jurisdiction over Defendants is reasonable.

19 4. Venue is proper pursuant to 28 U.S.C. § 1391(b), because jurisdiction is not
20 founded solely on diversity of citizenship and a substantial part of the events or omissions giving
21 rise to Plaintiffs' claims occurred, or a substantial part of property that is the subject of this action,
22 is situated in this judicial district.

23 **PARTIES**

24 5. Bellagio, LLC is a Nevada limited liability company with its principal place of
25 business in Las Vegas, Nevada. Bellagio owns and operates the Bellagio resort hotel and casino in
26 Las Vegas, Nevada.

27 6. Mirage Resorts, Incorporated (defined above as "MRI") is a Nevada corporation
28 with its principal place of business in Las Vegas, Nevada. MRI is the parent company of Bellagio
and owns the BELLAGIO Marks (defined below) used by Bellagio, LLC. (For convenience, MRI

and Bellagio, LLC, will be collectively referred to as “Bellagio” throughout the Complaint.)

7. Upon information and belief, Defendants Bellagio Car Wash & Express Lube is the business currently operating a car wash under the name “Bellagio Car Wash & Express Lube” at 4457 Manhattan Beach Blvd, Lawndale, California, 90260. Bellagio Car Wash & Express Lube also operates a website at <bellagiocarwash.com>. Upon information and belief, Tri Star Car Wash is the registrant of the domain name.

ALLEGATIONS COMMON TO ALL CLAIMS

8. The Bellagio is a world-famous resort hotel and casino located on the Las Vegas Strip in Las Vegas, Nevada. The Bellagio features 3,933 guest rooms, 100,000 square feet of gaming, five pools, the Fountains of Bellagio, a conservatory and botanical garden, the Bellagio Gallery of Fine Art, a luxury shopping promenade, a spa and salon, Cirque du Soleil’s O show, world-renowned restaurants, lounges, a nightclub, wedding chapels, convention and meeting rooms, and other amenities.

9. Since opening in 1998, Bellagio has continuously used the BELLAGIO trademark, including the BELLAGIO word mark and a mark comprised of the word BELLAGIO against an enlarged scripted B (“B BELLAGIO Mark”) (collectively, “BELLAGIO Marks”) in connection with a wide variety of goods and services.



B BELLAGIO Mark

10. Bellagio has received widespread recognition and numerous awards. Some of these awards include:

- **AAA** Five Diamond Award, 2001 - 2014
- **Celebrated Living** #1 Hotel in the U.S. Readers Choice Platinum List, 2009
- **Condé Nast Traveler Magazine** Gold List of the World's Best Places to Stay, 2008
- **Expedia Insiders Select** Top Destination Resort, 2009
- **Forbes Traveler Magazine** World’s 400 Best Hotels, 2008



- **Market Metrix Hospitality Index** Best Upscale Casino Hotel, 2008
- **Mobil** Four-Star Mobil Travel Guide Award, 2008, 2009
- **Travel + Leisure Magazine** Top 500 World's Best Hotels, 2007 - 2010
- **Travel + Leisure Magazine 500**, 2010 - 2014
- **Travel Weekly** - Readers Choice Award 2008
- **Qantas** Frequent Flyer Favorite Hotel, 2009
- **Zagat** Survey Top Overall, 2008; Most Popular Hotel, 2008








11. Bellagio has spent millions of dollars to advertise and promote the BELLAGIO Marks and the associated goods and services in a variety of media, including, print, broadcast, and on the Internet through the web site accessible at < bellagio.com >.



12. Bellagio has been featured in the media throughout the United States and around the world, including in newspapers, magazines, television programs, and movies, such as Ocean's Eleven and Ocean's Thirteen.

13. Millions of consumers visit the Bellagio each year.

14. Bellagio owns several federal trademark registrations for the BELLAGIO Marks on the Principal Register of the United States Patent and Trademark Office ("USPTO") including:

Trademark	Registration No.	Goods/Services
	4,218,228	Mattresses
	4,469,237	Glass beverage ware; mugs; drinking steins; cups; plates; serving trays not of precious metal; cookie jars; water bottles sold empty; insulating sleeve holders for beverage cans; thermal insulated containers for beverages; vases; coasters not of paper and not being table linen; bottle openers; cork screws; statues of china, crystal, earthenware, glass, porcelain, or terra cotta; hair brushes; hair combs; and non-metal piggy banks

Trademark	Registration No.	Goods/Services
	3,702,271	Clothing, namely, t-shirts; tank tops; polo shirts; sweatshirts; jackets; shorts; sundresses; two-piece sets comprised of tops and bottoms; <u>headwear; sleepwear; socks</u>
	3,466,804	Art galleries; issuing gift certificates which may then be redeemed for goods or services; providing facilities for business meetings; providing information in the field of <u>shopping via the internet</u>
	3,725,616	Retail store services, namely, retail apparel and clothing stores; Retail shops featuring perfume, cologne, cosmetics, personal body care lotions, soaps, gels and body sprays; Retail store services featuring handbags, purses, shoes and accessories; Retail store services <u>featuring convenience store items</u>
	3,466,805	Conducting and providing facilities for special events featuring casino and gaming contests and tournaments; botanical gardens; health club services; booking of theatre tickets; special event planning; cabarets; night clubs; amusement arcades; beach and pool clubs, namely, providing fitness and exercise facilities featuring pools and bathing and showering facilities; providing information in the field of gaming and entertainment via the <u>internet</u>
	2,964,700	Photography services
	2,570,928	Casino and entertainment services in the nature of live performances by singers
	2,514,690	Hotel, beauty salons and health spas

Trademark	Registration No.	Goods/Services
	3,491,777	Restaurant services; bar and lounge services; providing convention facilities; providing banquet and social function facilities for special occasions; catering; providing travel lodging information services via the internet; providing information in the fields of dining, hospitality and exhibitions via the internet; travel agency services, namely, making reservations and booking for temporary lodging, restaurants and meals
	2,924,850	Wedding chapel services
BELLAGIO	2,232,487	Hotels, beauty salons and health spas
BELLAGIO	2,232,486	Casinos and live entertainment services in the nature of performances by singers, comedians, dancers, and musical groups
BELLAGIO	2,964,701	photography services
BELLAGIO	2,915,992	Convention facilities and providing banquet and social function facilities for special occasions
BELLAGIO	2,959,168	Wedding chapel services
BELLAGIO	2,873,850	Real estate investment and real estate management
BELLAGIO	3,725,615	Retail store services, namely, retail apparel and clothing stores; retail shops featuring perfume, cologne, cosmetics, personal body care lotions, soaps, gels and body sprays; retail store services featuring handbags, purses, shoes and accessories; retail store services featuring convenience store items
BELLAGIO	2,313,142	Wearing apparel, namely, t-shirts, tank tops, collared golf shirts, sweaters, jackets, jogging suits, sweat shirts, sweat pants, short pants, swim wear, dress shirts, skirts, blouses, dress pants, caps, hats and bandannas
BELLAGIO	2,559,405	Cologne, perfume, eau de toilette, body lotion, hand cream, bath and shower gels, massage oils, bath salts, bath soaps, hair shampoo, hair conditioner

Trademark	Registration No.	Goods/Services
BELLAGIO	4,218,227	Mattresses
BELLAGIO	4,469,238	Glass beverageware; mugs; drinking steins; cups; plates; serving trays not of precious metal; cookie jars; water bottles sold empty; insulating sleeve holders for beverage cans; thermal insulated containers for beverages; vases; coasters not of paper and not being table linen; bottle openers; cork screws; statues of china, crystal, earthenware, glass, porcelain, or terra cotta; hair brushes; hair combs; and non-metal piggy banks
BELLAGIO	4,422,201	Towels and washcloths; bed linen, namely, bed sheets, duvet covers, blankets, and pillow cases
BELLAGIO	4,058,511	Sporting events; operation of casinos; conducting and providing facilities for special events featuring casino and gaming contests and tournaments; botanical gardens; health club services; booking of theatre tickets; special event planning; cabarets; night clubs; amusement arcades; beach and pool clubs, namely, providing fitness and exercise facilities featuring pools and bathing and showering facilities
BELLAGIO	4,058,518	Restaurant and bar services; cafes; cafeterias; snack bars; catering; providing facilities for exhibitions; travel agency services, namely, making lodging, restaurant and meals reservations

15. Plaintiffs' federal trademark registrations for the BELLAGIO Marks are valid and subsisting, and have not been abandoned, cancelled, or revoked.

16. In addition to its federal trademark registrations, Bellagio owns Nevada state trademark registrations and common law rights in and to the BELLAGIO Marks for a variety of goods and services.

17. Based on the widespread recognition of the BELLAGIO Marks, Bellagio's extensive and widespread use of the BELLAGIO Marks, and other relevant factors, the BELLAGIO Marks have become famous within the meaning of the Trademark Dilution Revision Act.

18. Bellagio owns the exclusive right to use the BELLAGIO Marks in the United States and the right to stop others from using the same or similar marks for even unrelated uses.

The Defendants' Infringing Conduct

19. Defendants have been using the BELLAGIO Marks in commerce to advertise, offer to sell, and sell car washes under the business named BELLAGIO CAR WASH & EXPRESS LUBE located at 4457 Manhattan Beach Blvd, Lawndale, California.

20. Below is a comparison of Defendants' exterior signage and the BELLAGIO mark:



(Defendants' Mark)



(Plaintiffs' Mark)

21. Defendants began using the name BELLAGIO CAR WASH & EXPRESS LUBE after the BELLAGIO Marks were first used, registered and became famous.

22. Not only have Defendants adopted a mark that copies Plaintiffs' famous BELLAGIO Marks, Defendants have adopted, registered and used the <bellagiocarwash.com> domain name. This domain name is registered to Tri Star Car Wash located at 6344 Sepulveda Blvd., Van Nuys, California.

23. Defendants' use of the BELLAGIO Marks is designed to usurp and wrongfully trade off of the substantial investment and goodwill Plaintiffs have developed in the BELLAGIO Marks. Specifically, Defendants hope to use the BELLAGIO Marks to usurp and wrongfully trade off of Plaintiffs' well-known reputation for high quality and luxury products and services.

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24. The Defendants' operation of a car wash using the BELLAGIO mark after Plaintiffs' BELLAGIO Marks have acquired nationwide fame is likely to dilute the distinctiveness of Plaintiffs' BELLAGIO Marks.

25. Plaintiffs' counsel has sent two cease and desist letters to Defendant Bellagio Car Wash & Express Lube demanding that Defendant immediately cease and desist from any and all use of the BELLAGIO Marks and provide a written response to Plaintiffs' counsel by September 17, 2013. Defendant failed to respond to the cease and desist letters.

26. Plaintiffs have not authorized, consented to, or otherwise licensed Defendants to make any use whatsoever of Plaintiffs' BELLAGIO Marks in commerce.

COUNT I

(Trademark Dilution under
the Lanham Act, 15 U.S.C. § 1125(c))

27. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set forth herein.

28. Since 1998, Plaintiffs have engaged in extensive, continuous, and substantially exclusive use of their distinctive BELLAGIO Marks in commerce such that consumers throughout the United States have come to recognize and associate the BELLAGIO Marks uniquely with Plaintiffs.

29. Accordingly, the BELLAGIO Marks have become famous throughout the United States, within the meaning of the Federal Trademark Dilution Act. While not pertinent to this cause of action. Plaintiffs also note that the BELLAGIO Marks have achieved international fame as well.

30. The Defendants have unlawfully adopted and begun using the BELLAGIO Marks in commerce without Plaintiffs' consent, authorization, or license.

31. The Defendants' unlawful adoption and use in commerce of the BELLAGIO Marks without Plaintiffs' consent, authorization, or license, began after the BELLAGIO Marks became famous in the United States.

32. The Defendants' unauthorized and unlawful adoption and use in commerce of a mark that is identical to or confusingly similar to Plaintiffs' BELLAGIO Marks is likely to dilute

1 the distinctiveness of Plaintiffs' BELLAGIO Marks within the meaning of the Federal Trademark
2 Dilution Act.

3 33. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered,
4 and will continue to suffer irreparable injury and damages in an amount to be determined at trial.

5 **COUNT II**

6 (Cybersquatting under
the Lanham Act, 15 U.S.C. § 1125(d))

7 34. Plaintiffs incorporate the allegations in the preceding paragraphs as if fully set forth
8 herein.

9 35. The Defendants have registered, trafficked in, and/or used the
10 <www.bellagiocarwash.com> domain.

11 36. The <www.bellagiocarwash.com> domain name is confusingly similar to
12 Plaintiffs' BELLAGIO Marks.

13 37. The <bellagiocarwash.com> domain name is confusingly similar to Plaintiffs' own
14 website, <bellagio.com>.

15 38. Plaintiffs' BELLAGIO Marks were distinctive and/or famous when Defendants
16 registered, trafficked in, and/or used the <bellagiocarwash.com> domain.

17 39. Upon information and belief, the Defendants have or had a bad faith intent to profit
18 from Plaintiffs' BELLAGIO Marks when it registered, trafficked in, and/or used the
19 <bellagiocarwash.com> domain.

20 40. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered,
21 and will continue to suffer, monetary loss and irreparable injury to their business, reputation, and
22 goodwill.

23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiffs pray that the Court enter judgment in their favor and against
25 Defendants, and that the Court:

26 A. Enter a preliminary and permanent injunction, pursuant to 15 U.S.C. § 1116(a),
27 prohibiting the Defendants and their respective officers, agents, servants, employees, and/or all
28 other persons acting in concert or participation with them, from using the BELLAGIO Marks, or

1 any confusingly similar variations thereof;

2 B. Enter a preliminary and permanent injunction, pursuant to 15 U.S.C. § 1116(a) and
3 15 U.S.C. § 1125(d)(1)(C), prohibiting the Defendants and their respective officers, agents,
4 servants, employees, and/or all other persons acting in concert or participation with them, from
5 using the BELLAGIO Marks, or any confusingly similar variations thereof, in any Internet domain
6 name, and requiring any registrar of the domain name <www.bellagiocarwash.com> to
7 immediately place the domain name on hold and lock, prohibiting its transfer, and, upon the entry
8 of judgment in Bellagio's favor or further order of the Court, transferring the registration for the
9 domain name to Bellagio;

10 C. Enter an order awarding Plaintiffs compensatory, consequential, statutory, and/or
11 exemplary damages in an amount to be determined at trial;

12 E. Enter an order awarding Plaintiffs reasonable attorneys' fees under the Lanham
13 Act;

14 F. Enter an order awarding Plaintiffs costs incurred in connection with this matter; and

15 G. Enter an order awarding Plaintiffs such other and further relief as the Court deems
16 just and equitable.

17 DATED: this 20th day of August, 2014.

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